



Summary Report

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Panel Theme: Diplomatic Perspectives on the Foreign Intervention “Grey Zone”

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OVERVIEW

Influence is at the heart of both diplomacy and interference.

Diplomacy can be defined as follows:

Diplomacy consists in the deployment of pacific and legitimate means by a government in order to promote its objectives and defend its interests in the global arena, as it strives to influence the positions, decisions and actions of other stakeholders.

Interference can be defined as follows:

Interference occurs when a country, foreign entity or intermediary seeks to exert undue influence in another country, either (i) through illegitimate action, and (or) (ii) through action with malicious intent, most often in a covert manner.

To distinguish between the two, it is important to examine both action and intention.

The Government of Canada would do well to clarify which forms of influence are legitimate and acceptable and which are illegitimate and unacceptable, both for internal purposes and as a way of informing and educating different target groups.

Objectives

The objectives of this document are to:

- 1- formulate definitions of diplomacy and interference
- 2- present a framework for distinguishing between the two
- 3- make recommendations

Preliminary Note on the Term “Influence”

The term “influence” often causes confusion. In some cases, it is used as a synonym for “interference”. In other cases, it refers to legitimate activities such as diplomacy.

The confusions arises from the fact that influence is a key aspect of both phenomena.

One type of influence is legitimate and acceptable. This includes influence exercised through diplomacy, as well as soft power.

The other type of influence, i.e. interference, is illegitimate and unacceptable.

Diplomacy: Definition and Observations

Surprising as it may seem, there is no universally accepted definition of diplomacy.

Drawing on the related literature and on diplomatic experience, we propose the following definition:

Diplomacy consists in the deployment of pacific and legitimate means by a government in order to promote its objectives and defend its interests in the global arena, as it strives to influence the positions, decisions and actions of other stakeholders.

Note that influence is a key element of this definition.

A few other observations:

- Diplomacy is mainly carried out by national governments, but can also be exercised by subnational governments (federated states, provinces, cities) and international organizations. International NGOs also engage in certain types of diplomacy.
- Methods used must be legitimate, transparent and peaceful (e.g. dialogue, information, persuasion, negotiations, alliances, recourse to international law, etc.).
- Pressure, coercion (e.g. economic sanctions) and the threat of force (but not the use of force) can also be part of diplomacy.

Diplomacy is the preferred tool for governments to implement foreign policy, but is not the only mechanism of influence.

Interference: Definition and Observations

First, it should be noted that the Government of Canada does not appear to have adopted an authoritative, government-wide definition of interference. Instead, there are varying definitions and explanations contained in a range of laws and documents serving different purposes. While understandable, this does create a certain amount of confusion. Astonishingly, the relevant article of the *CSIS Act*, the text most commonly used by the Government of Canada as the “definition” for the term, does not even mention “interference.”

It should also be noted that the *1961 Vienna Convention on Diplomatic Relations* prohibits interference (Article 41.1) but does not define the term.

To determine whether an activity constitutes interference, it is eminently helpful to consider both the action and intention.

For this reason, we propose the following generic definition. We use the term “generic” because we are not suggesting that the Government of Canada should use it consistently and systematically in all its legislation and documents. In certain cases, varying definitions of the term remain useful to meet specific needs or objectives, such as for intelligence or electoral law. However, a generic definition would nevertheless be a useful reference.

Interference occurs when a country, foreign entity or intermediary seeks to exert undue influence in another country, either (i) through illegitimate action, and (or) (ii) through action with malicious intent, most often in a covert manner.

Note that the term “influence” appears again in this definition, but the modifier “undue” has been added.

A Framework for Distinguishing Between the Terms

With these definitions in mind, it is useful to take a closer look and determine which actions and intentions are legitimate and fall within diplomacy, and which are illegitimate and consist in interference.

The following analytical grid can be used for this purpose:

ACTIONS

<i>Legitimate Zone: Diplomacy</i>	<i>Illegitimate Zone: Interference</i>
<p><i>At first glance, the following actions might be considered legitimate and within the realm of diplomacy...</i></p> <ul style="list-style-type: none"> • establishing relationships • holding private and public meetings • communicating in public platforms • seeking information • disseminating information, conducting advocacy • negotiating • taking legal action • conveying the likely legitimate consequences of a position, decision or action being considered by stakeholders of the host country. <p><i>...unless they are carried out with malicious intent.</i></p>	<p><i>Engaging in any of the following actions constitutes interference:</i></p> <ul style="list-style-type: none"> • concealing identity and intentions • spreading disinformation • soliciting classified or protected information • offering incentives, or financial or material support • using threats, intimidation or violence • manipulating or instrumentalizing individuals or organizations • engaging in harassment • using coercion • exerting undue pressure • carrying out electronic monitoring or cyber attacks • engaging in unlawful activity

INTENTIONS

<i>Legitimate Zone: Diplomacy</i>	<i>Illegitimate Zone: Malicious Intent Interference</i>
<p data-bbox="250 514 773 636"><i>At first glance, the following intentions might be considered legitimate and within the realm of diplomacy...</i></p> <ul data-bbox="302 737 799 1188" style="list-style-type: none"> • advance objectives and defend interests • project a positive image • counter negative perceptions • mitigate criticism • promote a point of view • influence perceptions/positions/policies/decisions <p data-bbox="250 1289 760 1365"><i>...unless pursued through illegitimate action.</i></p>	<p data-bbox="821 514 1357 583"><i>Pursuing any of the following intentions constitutes interference:</i></p> <ul data-bbox="873 669 1333 1455" style="list-style-type: none"> • undermine the legitimacy, integrity and reputation of institutions or individuals • undermine social cohesion • undermine values • destabilize the country and its institutions • undermine the country's sovereignty • interfere with processes • disrupt events • counter the exercise of rights and freedoms • suppress dissent or criticism

Therefore:

- If the action as well as the intention are both legitimate, it is diplomacy.
- If the action is illegitimate, it is interference.
- If the action might be considered legitimate at first glance but is ultimately carried out with malicious intent, it is interference.

How Much Evidence Is Needed Before Taking Action Against Interference ?

The use of the notion of “intention” in the above grid raises an important question: How do we identify intention? The answer is not always simple or obvious, but it can be determined based on several pieces of information—for example, a government’s past practices; questionable practices, such as having frequent contact with someone while alone; and internal documents, publications and statements issued by that government.

Interference is first and foremost a political phenomenon. Of course, interference and certain elements of it may also be considered a criminal or administrative offence under Canadian law. But when dealing with this issue at the political and diplomatic level, the “beyond a reasonable doubt” standard of evidence required in criminal law does not apply. As soon as there is relevant information about the action and intention, one can consider it a case of interference and take action accordingly.

Countering foreign interference cannot simply be a matter of attempting to sanction a completed action after the fact once there is sufficient evidence to withstand the scrutiny of a court of law. As soon as there is relevant and credible information to identify an act of interference, one is free to take action at the political and diplomatic level in a proactive and calibrated way to counteract the interference.

RECOMMENDATIONS

We recommend the following:

The Government of Canada should formulate definitions of diplomacy and interference to serve as a general reference.

The point is not to legislate these definitions, but rather to articulate them for the purpose of political action, communication and the education of certain target groups.

This would be particularly useful for the following second recommendation:

The Government of Canada should develop guidelines, communication and training tools on foreign influence, for a range of target groups—elected officials, civil servants, academics, the private sector, civil society, various communities and the general public. These tools should make a clear distinction between what is legitimate and acceptable, and what is illegitimate and unacceptable—or even criminal.

Additional Comments:

Two key objections can be made regarding the above.

First, the notion of what is considered “legitimate” is vague and open to interpretation, particularly by states with regimes and political cultures that differ from those of Canada. To address the vagueness of the term, we have supplemented our definition with a grid that identifies what can be considered legitimate and what cannot. We acknowledge the fact that different states are likely to have their own interpretations of these definitions. However, it is important for us here in Canada to have a clear idea of what we can and cannot accept. We also need to communicate our expectations and our perspective to various groups (e.g. diplomats stationed in Canada) in order to increase our chances of successfully countering interference.

Second, it can always be argued that there is a useful ambiguity when it comes to interference. This may be true. We do not claim that the definitions and framework presented above eliminate all ambiguity. However, without useful definitions and explanations, how can we guide the government’s internal work and, most importantly, communicate in a way that is useful both to Canadians and to governments and agents of other states that are trying to influence Canada?

It is better to have some degree of precision and clarity than to settle for vagueness and uncertainty.